

AMENDED IN SENATE AUGUST 5, 1996  
AMENDED IN SENATE JULY 3, 1996  
AMENDED IN SENATE JUNE 20, 1996  
AMENDED IN ASSEMBLY MAY 14, 1996  
AMENDED IN ASSEMBLY MAY 2, 1996  
AMENDED IN ASSEMBLY APRIL 16, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2400**

**Introduced by Assembly Member Miller**

February 16, 1996

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An act to amend Section 20502 of, and to add Section 20306 to, the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2400, as amended, Miller. Public employees: local retirement systems.

(1) Existing law provides that classified school employees are members of the Public Employee's Retirement System and authorizes local agencies, including school districts, to establish pension trusts for the benefit of their officers and employees.

This bill would provide that represented part-time school and public agency employees may ~~elect to~~ participate in an alternate retirement plan established as a pension trust in accordance with a memorandum of understanding and that

~~the eligibility of unrepresented part-time employees would be eligible to elect to participate in the alternate retirement plan would be determined by the employer.~~

(2) The Public Employees' Retirement Law authorizes contracting agencies and the retirement board to agree to exclusions of groups of employees from contracts for system coverage.

This bill would provide that those contracts could not provide for exclusion of some, but not all, firefighters, police officers, or county peace officers and would make a statement of legislative intent.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 20306 is added to the  
2 Government Code, to read:  
3 20306. (a) Notwithstanding paragraph (1) of  
4 subdivision (a) of Section 20305, an employee  
5 participating in this system, other than a local safety  
6 member, who is credited with less than five years of state  
7 service and whose service falls below the minimum  
8 service prescribed by paragraph (2) of, or subparagraph  
9 (A) or (B) of paragraph (3) of, subdivision (a) of Section  
10 20305 and who is eligible for membership in an alternate  
11 retirement plan established or maintained by the county  
12 superintendent of schools or the public agency pursuant  
13 to Article 1.5 (commencing with Section 53215) of  
14 Chapter 2 of Part 1 of Division 2 of Title 5, may participate  
15 in that plan in accordance with the following provisions:  
16 (1) Eligibility to participate in an alternate retirement  
17 plan for an employee who is employed on or after January  
18 1, 1997, or the effective date of the establishment of an  
19 alternate retirement plan, whichever is later, and who is  
20 represented by an exclusive bargaining representative  
21 shall be determined by the provisions of a memorandum  
22 of understanding executed between the public agency  
23 and the exclusive bargaining representative of the  
24 employee. That memorandum of understanding shall

1 *prescribe all of the terms and conditions under which the*  
2 *alternate plan is established including the employer and*  
3 *employee contribution rates.*

4 *(2) Eligibility to participate in an alternate retirement*  
5 *plan for an employee who is employed on or after January*  
6 *1, 1997, or the effective date of the establishment of an*  
7 *alternate retirement plan, whichever is later; and who is*  
8 *not represented by an exclusive bargaining*  
9 *representative shall be determined by the employer.*

10 *(3) Eligibility to participate in an alternate retirement*  
11 *plan established prior to January 1, 1997, for an employee*  
12 *who is employed prior to that date, or for plans*  
13 *established on or after January 1, 1997, for an employee*  
14 *who is employed prior to the date the plan is established,*  
15 *shall be determined by the employee in accordance with*  
16 *the following election procedures:*

17 *(A) The employer shall make available to each*  
18 *employee prior to April 1, 1997, or at least 90 days prior*  
19 *to the proposed effective date of the alternate retirement*  
20 *plan, whichever is later, information describing the*  
21 *employee's rights and responsibilities as a participant in*  
22 *either this system or the alternate retirement plan*  
23 *offered by the employer and describing the benefits*  
24 *provided by this system and that alternate retirement*  
25 *plan. The information shall include all of the terms and*  
26 *conditions under which the system and the alternate*  
27 *retirement plan are established including the employer*  
28 *and employee contribution rates.*

29 *(B) An employee who fails to make an election prior*  
30 *to July 1, 1997, or 90 days after being given the election*  
31 *opportunity, whichever is later, shall be informed by the*  
32 *employer by certified mail that the failure to make that*  
33 *election has been deemed an election to participate in the*  
34 *alternate retirement plan whenever his or her*  
35 *employment fall below the requirements prescribed by*  
36 *Section 20305.*

37 *(C) The employer shall maintain in its files a written*  
38 *acknowledgment by the employee that the employee*  
39 *received the information required under this section*

1 within the specified timeframe and shall maintain  
2 election results and election forms of employees.

3 (D) The employer shall notify the system as to the  
4 results of election by employees in the manner prescribed  
5 by the board.

6 (b) An employee's participation in the alternate  
7 retirement plan shall commence as soon as it is reasonable  
8 for this system to determine the member's qualifications  
9 pursuant to Section 20305. Employers shall submit all  
10 information deemed necessary for this system to make  
11 those determinations. Participation in the alternate  
12 retirement plan shall continue until the system  
13 determines that the employee's employment meets the  
14 conditions for membership in this system, whereupon the  
15 employee shall reenter membership in this system.

16 ~~20306. (a) Notwithstanding paragraph (1) of~~  
17 ~~subdivision (a) of Section 20305, an employee~~  
18 ~~participating in this system, other than a local safety~~  
19 ~~member, who is credited with less than five years of state~~  
20 ~~service and whose service falls below the minimum~~  
21 ~~service prescribed by paragraph (2) of, or subparagraph~~  
22 ~~(A) or (B) of paragraph (3) of, subdivision (a) of Section~~  
23 ~~20305 and who is eligible for membership in an alternate~~  
24 ~~retirement plan established or maintained by the county~~  
25 ~~superintendent of schools or the public agency pursuant~~  
26 ~~to Article 1.5 (commencing with Section 53215) of~~  
27 ~~Chapter 2 of Part 1 of Division 2 of Title 5, may elect to~~  
28 ~~participate in that system in accordance with a~~  
29 ~~memorandum of understanding executed between the~~  
30 ~~public agency and the exclusive bargaining~~  
31 ~~representative of the employee if the employee is~~  
32 ~~represented. That memorandum of understanding shall~~  
33 ~~prescribe all of the terms and conditions under which the~~  
34 ~~alternate plan is established including the employer and~~  
35 ~~employee contribution rates.~~

36 ~~(b) An employee who is employed on the effective~~  
37 ~~date of the establishment of an alternate retirement plan~~  
38 ~~that is established after January 1, 1997, and who is not~~  
39 ~~represented by an exclusive bargaining representative~~  
40 ~~shall participate in the alternate retirement plan~~

1 ~~whenever his or her employment falls below the~~  
2 ~~requirements prescribed by Section 20305 if he or she has~~  
3 ~~elected to participate in the alternate retirement plan.~~

4 ~~(c) A member who was employed on January 1, 1997,~~  
5 ~~by an employer that has established an alternate~~  
6 ~~retirement plan prior to January 1, 1997, shall participate~~  
7 ~~in the alternate retirement plan whenever his or her~~  
8 ~~employment falls below the requirements prescribed by~~  
9 ~~Section 20305 if the member elects to participate in the~~  
10 ~~alternate retirement plan on or before April 1, 1997.~~

11 ~~(d) An employee's participation in the alternate~~  
12 ~~retirement plan shall commence as soon as it is reasonable~~  
13 ~~prior to the commencement of the fiscal year subsequent~~  
14 ~~to the election to participate whenever his or her~~  
15 ~~employment falls below the requirements prescribed by~~  
16 ~~Section 20305 and shall continue until the time that the~~  
17 ~~employee's employment meets those requirements,~~  
18 ~~whereupon the employee shall reenter membership in~~  
19 ~~the system.~~

20 ~~(e) The election to participate in the alternate~~  
21 ~~retirement plan shall be subject to the following~~  
22 ~~requirements:~~

23 ~~(1) The employer shall make available to each~~  
24 ~~employee on January 1, 1997, or at least 90 days prior to~~  
25 ~~the proposed effective date of the alternate retirement~~  
26 ~~plan, whichever is later, information describing the~~  
27 ~~employee's rights and responsibilities as a participant in~~  
28 ~~either this system or the alternate retirement plan~~  
29 ~~offered by the employer and describing the benefits~~  
30 ~~provided by this system and that alternate retirement~~  
31 ~~plan. The information shall include all of the terms and~~  
32 ~~conditions under which the system and the alternate~~  
33 ~~retirement plan are established including the employer~~  
34 ~~and employee contribution rates.~~

35 ~~(2) A member of this system subject to subdivision (c)~~  
36 ~~who fails to make an election prior to April 1, 1997, shall~~  
37 ~~be informed by the employer by certified mail that the~~  
38 ~~failure to make that election has been deemed an election~~  
39 ~~to participate in the alternate retirement plan whenever~~

1 ~~his or her employment falls below the requirements~~  
2 ~~prescribed by Section 20305.~~

3 ~~(3) The employer shall maintain in its files a written~~  
4 ~~acknowledgment by the employee that the employee~~  
5 ~~received the information required under this section~~  
6 ~~within the specified timeframe and shall maintain~~  
7 ~~election results and election forms of employees.~~

8 ~~(4) The employer shall notify the system as to the~~  
9 ~~results of elections by employees in the manner~~  
10 ~~prescribed by the system.~~

11 SEC. 2. Section 20502 of the Government Code is  
12 amended to read:

13 20502. The contract shall include in this system all  
14 firefighters, police officers, county peace officers, and  
15 other employees of the contracting agency, except as  
16 exclusions in addition to the exclusions applicable to state  
17 employees may be agreed to by the agency and the board.  
18 The contract shall not provide for the exclusion of some,  
19 but not all, firefighters, police officers, or county peace  
20 officers. The exclusions of employees, other than  
21 firefighters, police officers, or county peace officers, shall  
22 be based on groups of employees such as departments or  
23 duties, and not on individual employees. The exclusions  
24 of groups may be made by amendments to contracts, with  
25 respect to future entrants into the group. The board may  
26 disapprove the exclusion of any group, if in its opinion the  
27 exclusion adversely affects the interest of this system.  
28 Membership in this system is compulsory for all  
29 employees included under a contract. This section shall  
30 not be construed to supersede Sections 20303 and 20305.

31 SEC. 3. The Legislature hereby declares that the  
32 intent of the amendments to Section 20502 of the  
33 Government Code by this act is to clarify the conditions  
34 under which part-time employees who are firefighters,  
35 police officers, or county deputy sheriffs are included in  
36 or excluded from membership in the Public Employees'  
37 Retirement System. In clarifying the conditions for  
38 membership, it is further the intent of these amendments  
39 to neither include nor exclude a part-time firefighter,  
40 police officer, or county deputy sheriff employee on any

1 basis other than conditions prescribed by the Public  
2 Employees' Retirement Law and the regulations in effect  
3 on January 1, 1997.

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